



Manistee County Board of Commissioners

Manistee County Courthouse • 415 Third Street • Manistee, Michigan 49660

CHAIRPERSON
Allan O'Shea
VICE-CHAIRPERSON
Edward Haik

Ken Hilliard
Ervin Kowalski
Jim Krolczyk
Glenn Lottie
Carl Rutske

CLERK

Marilyn Kliber
(231) 723-3331

CONTROLLER/ADMINISTRATOR

Thomas Kaminski
(231) 398-3500

County Board of Commissioners Study Session

Thursday, December 9, 2010
1:00 P.M.

Manistee County Courthouse
Board of Commissioners Meeting Room

REPORT

Members Present: Allan O'Shea, Chairperson; Ervin Kowalski; Glenn Lottie; Carl Rutske; Ken Hilliard; and Jim Krolczyk

Members Absent: Ed Haik

Planning
Commission

Members Present: Clara Kraus Saari, Chairperson; William Pettis; Marvin Scarlata; Roger Smithe; Janice McCraner; and Ken Hilliard

Planning
Commission

Members Absent: Mary Becker-Witt

Others Present: Tom Kaminski, County Controller/Administrator; Ford Stone, Prosecuting Attorney; Mark DiBenedetto, Drain Commissioner; Michael Woodworth, Attorney Representing the Hubbard Law Firm; Cynthia Sullivan, Representing the Spicer Group; William Eckhardt, Road Commission Chairman; Gerald Peterson, Road Commission Manager; Walter Froncek, Stronach Township Supervisor; and others representing various governmental entities and the public

The Study Session was called to order by Chairman O'Shea at approximately 1:00 P.M. The Pledge of Allegiance was recited and Ervin Kowalski gave the Invocation.

Mr. O'Shea announced that the purpose of the Study Session was to discuss two specific Drain Commission issues, the first being guidelines proposed by the Drain Commissioner for storm water management in Manistee County, and the second being the procedure for the location, establishment and construction of the Kettle Hole Drain in Stronach Township. It was indicated that the Storm Water Management Guidelines were initially presented to the County Planning Commission by the Drain Commissioner at the request of the County Controller/Administrator. On November 5, 2010, the County Planner wrote a letter back to the County Administrator indicating that the County Planning Commission was requesting to meet with the County Board of Commissioners to further discuss the potential adoption of these guidelines. Clara Kraus Saari, County Planning Commission Chairman, reviewed correspondence from the Spicer Group dated December 7, 2010, which answered many questions that the County Planner requested answers to in correspondence dated December 3, 2010. The floor was then turned over to Roger Smithe, Planning Commission member, who discussed many of the Planning Commission's concerns in greater detail. Specifically, Mr. Smithe indicated his concerns with

the following:

- 1) Concern over the fact that these guidelines were being administered by an elected official and not necessarily someone trained in the area of storm water management.
- 2) Major industries currently are required to have storm water pollution prevention plans, a certified storm water operator, and a procedure to update the storm water pollution prevention plan whenever changes affect the potential for storm water contamination. These permits already protect storm water at these facilities and they should not be subject to a second set of requirements imposed by the county.
- 3) Concern regarding the fact that the person that could grant a variance is the same person who denied the permit in the first place.
- 4) It is not clear who would enforce the rules if an owner or builder doesn't abide by a permit that is issued to them.
- 5) Would county departments have to pay the Drain Commissioner \$1,000 for a permit when they do various capital improvement projects?

Mr. O'Shea then asked the rest of the Planning Commission whether they had any additional concerns with the proposed guidelines. Ms. Saari also asked many questions regarding the guidelines and the Planning Commission indicated that the guidelines should not be adopted unless information can be provided that they are absolutely needed in the county. Mr. DiBenedetto indicated that he has never had any guidelines since he took office and that these guidelines would be something he could hand to developers to give them some idea of the county's requirements. Mr. Woodworth, legal counsel representing the Drain Commissioner, explained the reasons why storm water management guidelines are important and the need to be consistent from project to project. Mr. DiBenedetto indicated that contractors have been asking what Manistee County's requirements are in regards to storm water regulations, and that at this time he has nothing to provide contractors.

Mr. DiBenedetto also introduced Cindy Sullivan, project manager of the Spicer Group, who provided further explanation regarding the need for these guidelines. She indicated that under the Land Division Act, the Drain Commissioner shall review all storm water management in Manistee County. The Spicer Group has assisted the Drain Commissioner in preparing the guidelines to assist with these reviews. They have also assisted many counties throughout the State of Michigan with the adoption of guidelines. She indicated that the Drain Commissioner must have these guidelines for projects and must use a standardized approach for his approvals and denials. It was also indicated that the Soil Erosion Officer has no authority under storm water management and that this task must be performed by the Drain Commissioner. After lengthy discussion, it was agreed by both the Planning Commission and County Board of Commissioners that guidelines were most likely needed, however, the lines of communication between the Drain Commission office and other elected officials needed to be improved and that Manistee County needs to work together with the Drain Commissioner to educate everyone about the need for these guidelines. It was then suggested that a Joint Committee consisting of the Road Commission, County Planning Commission, Drain Commissioner and County Board of Commissioners should be formed to further discuss and review these guidelines before bringing them back before the County Board of Commissioners for final approval. The County Board of Commissioners, at their December 21, 2010 meeting, will seek a motion to form a Joint Committee to work on storm water management guidelines and a fee schedule for this procedure.

Mr. O'Shea then announced that the County Board and Planning Commission would take a five minute recess at 2:10 P.M.

At 2:15 P.M., the Study Session was reconvened, and Mr. O'Shea announced that the next topic on the agenda was to review and discuss the location, establishment and construction of the Kettle Hole Drain in Stronach Township. The Drain Commissioner announced that the Hubbard Law Firm and Spicer Group have been retained by his office to assist with legal matters and engineering issues regarding the Kettle Hole Drain. Mr. Woodworth, attorney for the Hubbard Law Firm, then spoke on the entire process and steps which were taken to establish a drainage district, including the appointment of the Board of Determination, which establishes whether a drain is necessary. He indicated that once the district is laid out, established and determined as necessary, and there are no challenges of necessity, the project is then left to the Drain Commissioner to determine the scope of the project. He indicated that the actual cost of the project cannot be determined until after the scope of the project is determined by the Drain Commissioner.

There were many questions asked on issues of the drain and Bill Eckhardt, Road Commission Chairman, indicated that the Road Commission initially approved moving forward with the project, but at their meeting that morning, voted to rescind its original action. It was also determined that Stronach Township had also taken action in opposition to this project. Annie Hooghart, a resident of Stronach Township, whose property is also within the drainage district being proposed, spoke regarding the size of the district and showed a map in which 39 properties were included within the drainage district. The Drain Commissioner disagreed with this map and indicated that there would be 65 different properties within the drainage district. Erv Kowalski, County Commissioner, indicated that he knows of no problems that have occurred within this drainage district and questioned why such a project is being proposed during this economy. Gerald Peterson, Road Commission Manager, spoke and indicated that there had been problems out at Kettle Hole over the past several years. Various questions were asked regarding the entire process and the need to continue with the project, however, it was determined at the Study Session that the Drain Commissioner retains certain rights under the Drain Code that give him authority to move forward with projects when it is deemed that they will adversely impact public health, convenience, and welfare in the township.

After lengthy discussion regarding this entire project, the Study Session was adjourned at approximately 3:20 P.M.

Respectfully submitted,

Thomas D. Kaminski, County Controller/Administrator

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